

Application Serial No.: 09/731,008
Response to July 14, 2006 Non-Final Office Action

REMARKS

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Claims 1 - 18 are in the application. Claims 7 -18 were previously withdrawn from consideration. Claims 1 and 6 are currently amended; claims 2, 3, were previously presented; and claims 4 and 5 remain unchanged from the original versions thereof. Claims 1 and 6 are the independent claims herein.

Claim rejections under 35 USC 112, 2nd paragraph

Claims 1 – 6 were rejected under 35 USC 2nd paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter Applicant claims as the invention.

Regarding claim 1, the Office Action rejected the use of the term "respective" at a number of instances, as detailed in the Office Action. Claim 1 has been amended to delete the term "respective" in each of the locations cited by the Examiner. Further, the Office Action rejected claim 1 on the basis of the phrase "substantially identical" therein. Applicant has amended claim 1 to delete such phraseology.

Claim 6 is also currently amended to remove all instances of the term "respective".

Accordingly, Applicant respectfully submits that the amendments to claims 1 and 6 submitted herewith fully addresses and overcomes the rejection under 35 USC 112, 2nd paragraph. Therefore, reconsideration and withdrawal of the rejection of claims 1 – 6 under 35 USC 112, 2nd paragraph are respectfully requested.

Claim Rejections Under 35 USC § 103(a)

Claims 1 - 6 were rejected as being unpatentable over Acosta et al., U.S. Patent No. 5,931,946 (hereinafter, Acosta). This rejection is respectfully traversed.

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The Office Action alludes to Applicant's attempt to traverse Official Notice taken by the Examiner in previous Office Actions (e.g., October 19, 2005 and April 4, 2005 Office Actions). However, even in light of what the Office Action argues is conceded under *Official Notice*, the Office Action only appears to rely on Official Notice of providing "computerized audit reports from audit firms operating independently of each other" and combining same with Acosta in the current rejection under 35 USC 103(a). This is Applicant's understanding of the rejection under 35 USC 103(a) since the Office Action clearly states that "[C]laims 1 - 6 were rejected as being unpatentable over Acosta et al., U.S. Patent No. 5,931,946 (hereinafter, Acosta)." (See Office Action dated July 14, 2006, page 3, item 5)

Applicant further submits that this Response and Amendment is a bone fide attempt to respond fully to the Office Action dated July 14, 2006. In the instance Applicant's understanding of the Office Action is in error, Applicant respectfully requests the Examiner to contact Applicant's attorney-representative (undersigned below) with clarification of the rejection.

Regarding the argument that "each loan portfolio is inherently associated with a net operating income (NOI) value", Applicant respectfully submits that an association of a NOI value with a loan portfolio is not that which is claimed by Applicant. Applicant points out that claims 1 and 6 clearly and distinctly recite generating an associated set of current NOI values. The claimed operation (i.e., process) of generating the set of NOI values is not inherent (i.e., necessary) to a portfolio and/or an audit. That is, the claimed operation of generating an associated set of current NOI values is not inherent to the Acosta system and method or even suggested by Acosta that is directed to implementing a customized audit checklist to effectuate compliance with various rules and regulations. (See Acosta, col. 5, ln. 30 -50) This fact is made clear by the total lack of consideration and disclosure by Acosta regarding a net operating income value associated with a portfolio. For example, Acosta states that there are typically at least 3,000 unique questions in a checklist regarding a particular audit. However, Acosta fails to even list a question regarding a NOI value.

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It is respectfully submitted that the pending claims 1 and 6 state specific actions that are not disclosed or even suggested by the cited and relied upon Acosta.

Applicant also respectfully notes that the Office Action is silent regarding other patentable aspects of the claimed invention. For example, the Office Action fails to address aspects such as the claimed "computer program including an interactive global NOI audit model" (See claim 1). This and other aspects of the claims appear to have been ignored by the Office Action dated July 14, 2006.

Accordingly, Applicant respectfully submits that claim 1 and 6 are patentable over the cited and relied upon Terada and Official Notice. Further, claims 2 - 5 depend from claim 1. Therefore, Applicant respectfully submits that claims 1 - 6 are patentable over the cited and relied upon Terada and Official Notice under 35 USC 103(a).

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CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-5985.

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Respectfully submitted,

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Date



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